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COMMITTEE AGAINST TORTURE

Nineteenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 302nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 11 November 1997, at 3 p.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.302/Add.1.

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Second periodic report of Cyprus (CAT/C/33/Add.1; HRI/CORE/1/Add.28) (continued)

1. At the invitation of the Chairman, Mr. Eftychiou, Mrs. Koursoumba, Mr. Anastasiades, Mr. Christophides and Mr. Kestoras (Cyprus) took places at the Committee table.

2. The CHAIRMAN invited the delegation of Cyprus to reply to the questions asked by members of the Committee at the previous meeting.

3. Mrs. KOURSOUMBA (Cyprus) began by replying to the questions asked by the Country Rapporteur, Mr. Burns. On the question of whether there were still any provisions of the Convention which were non-self-executing, she said that under the Constitution of Cyprus any ratified treaty was automatically incorporated into domestic law. Any act of torture would thus automatically be an offence.

4. With regard to the case of Mr. Saricicekli, the Special Rapporteur on questions related to torture had also taken an interest in that case, and the Government of Cyprus had recently addressed a reply to the Commission on Human Rights, a copy of which would be transmitted to the Committee. Without going into the details of the case, she said that the person concerned had been caught in the act of espionage and had violently resisted attempts to arrest him. Reasonable force had eventually been used. Mr. Saricicekli had been examined by several doctors, none of whom had found any evidence of violence.

5. With regard to the situation in the Limassol police station, she acknowledged that there had been allegations of torture there in the past. A special Commission of Public Inquiry had been set up and, on completion of the inquiry, penalties had been imposed on three senior police officers, including the officer responsible for interrogations and his deputy. The three officers concerned had been dismissed. Since then, no complaint alleging police brutality had been made. As for electric stun guns, they were no longer used.

6. With regard to mental health, paragraph 5, subparagraphs (a) and (d), of the second periodic report would no longer be applicable with the entry into force of the new draft law providing for and regulating voluntary and compulsory treatment of mental patients. Details of those two modes of confinement were given in paragraphs 7 et seq. of the report. Persons suffering from mental disorders were entitled to a court hearing; if they were incapable of attending in person, they could be represented by a lawyer of their choice, whose fees would be borne by the State. Specific provisions governed the circumstances in which voluntary confinement could be changed to compulsory confinement. She would transmit an English translation of those provisions to the Committee. The Supervising Committee responsible for monitoring application of the law consisted of a chairman and eight members appointed by the Council of Ministers, including two lawyers (one in private practice and the other working for the Office of the Attorney-General),

two psychiatrists (one self-employed and one working for the Ministry of Health), a psychologist, a nurse, a social worker and a representative of voluntary mental health associations.

7. As for detainees infected with HIV or hepatitis B, there was no official policy of isolating them; such detainees attended all training, recreational and educational programmes along with the other detainees, but slept in separate cells, for their own protection. That was because, in spite of an information campaign conducted for the benefit of prisoners and warders, the other detainees were unwilling to share accommodation with persons they regarded as ill. With regard to article 3 of the Convention, she said that Cyprus had no refugee problem. Mr. Sørensen had referred to a specific case with which she was not familiar. She would arrange for any written information she was able to obtain on the case to be transmitted to the Committee. There were four official forensic doctors, and if necessary the Government called on the services of experts from abroad, in particular the United Kingdom. To the best of her delegation's knowledge, no education programmes on the prohibition of torture were provided for medical personnel, but given that any conduct tantamount to torture was a breach of medical ethics, it was inconceivable that a doctor or nurse could act in violation of the Convention's provisions. In any case, any conduct of that type would result in prosecution.

8. With regard to the review of interrogation methods, the Police Academy organized lectures on human rights in general, and specifically on interrogation methods, for police cadets. Courses were also held abroad; those attending were required to share what they had learned with their colleagues on their return.

9. It had been asked what steps had been taken to implement the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) concerning the establishment of a special form to be completed whenever an individual was arrested by the police and held in a police detention centre. That recommendation had been implemented and was regularly monitored by inspectors. If the form was not filled in, those responsible could be charged with negligence.

10. With regard to compensation under article 14 of the Convention, it was not possible to bring charges against a policeman responsible for ill-treatment if he could not be identified by the victim. However, the victim could bring a civil action and would be entitled to damages, with no upper limit and for an amount fixed by the court. There were three categories: special damages, general damages and punitive damages. She confirmed that medical rehabilitation was provided, both in Cyprus and abroad. If the necessary treatment could not be provided in Cyprus, the Government would bear the cost of treatment abroad, particularly in cases of severe ill-treatment. Such a situation had already arisen. With regard to contributions to the United Nations Voluntary Fund for Victims of Torture, Cyprus had already contributed twice to the Fund, and was preparing to make a third contribution.

11. Replying to the questions asked by Mr. Zupančič about the effects of the proposed legislation covering interrogation and the admissibility of evidence, she said that what was proposed was a comprehensive revision of the law of evidence. The question of a confession obtained in violation of the Convention's provisions had always been a matter of substance and not merely one of procedure. Confessions obtained in that way had never been admissible, and any statement had to be freely made, which meant that pressure of any sort, including promises, was also forbidden. The Government and the Attorney-General fully supported the draft law. However, defence lawyers thought that the draft law would make it easier to reach a guilty verdict, an opinion she herself did not share. The jury system did not exist in Cyprus, and only judges passed verdicts. While torture was not practised in Cyprus, there were undeniably some cases of violations of human rights, for instance, illegal telephone tapping. In one case the court, invoking the freedom of communication guaranteed by the Constitution, had found evidence obtained by intercepting telephone communications inadmissible.

12. On the question of the right of a detainee to choose a doctor and counsel, she said that following two visits to Cyprus by the European Committee for the Prevention of Torture (CPT), that provision was fully respected.

13. Referring to the Lykourgos Vassiliou case, mentioned in paragraph 30 of the second periodic report, she gave details of the nature of the "legal impediments" that had prevented a videotape showing the complainant being ill-treated by the police from being admitted as evidence by the court. The reason had been that the person who had made the video recording had refused to acknowledge that he had been the author of the tape. There had also been a "legal impediment" in the case of Erkan Eğmez, who had filed a complaint against the police with the Ombudsman. A meeting between the two had been arranged in an area under United Nations control, since in order to initiate proceedings the Attorney-General had to be in possession of a statement by the complainant, obtained in circumstances guaranteeing the regularity of the procedure. However, the complainant had failed to keep the appointment.

14. In reply to a question by the Chairman, she said that the post of Attorney-General was guaranteed absolute independence by the Constitution, according to which he was the Government's legal adviser. He could not be removed except on grounds of insanity. He had an Office staffed by advisers and prosecutors, who acted in his name. In matters of prosecution, the Attorney-General had the absolute power to initiate or end proceedings. He also had discretionary power, and the current incumbent had several times made it known that he would not tolerate police brutality and would release anyone who had been subjected to it. As to the judicial system in general, the Constitution provided for a Supreme Constitutional Court and a Supreme Court. Since the entry into force of an Act in 1964, those Courts had been amalgamated into a single Supreme Court, which served as a constitutional court and a court of appeal in criminal and civil matters. The lower courts were broadly speaking divided into civil and criminal courts. Fuller information on matters of jurisdiction was to be found in paragraph 21 of the initial report (CAT/C/16/Add.2) and in paragraph 25 of the second periodic report, currently before the Committee. Article 12 of the Constitution provided for the presumption of innocence of any suspect until proved guilty.

15. A draft law to abolish the death penalty for acts of treason and piracy should soon be adopted by Parliament. She would arrange for the texts of the provisions she had cited during her statement to be transmitted to the Committee, together with all the information and replies she had not yet been able to provide.

The meeting was suspended at 3.55 p.m. and resumed at 4.30 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Second periodic report of Cyprus (continued) (CAT/C/33/Add.1; HRI/CORE/1/Add.28)

Conclusions and recommendations of the Committee

16. At the invitation of the Chairman, Mr. Eftychiou, Mrs. Koursoumba, Mr. Anastasiades, Mr. Christophides and Mr. Kestoras (Cyprus) took places at the Committee table.

17. The CHAIRMAN invited the Country Rapporteur to read out the conclusions and recommendations adopted by the Committee concerning the second periodic report of Cyprus.

18. Mr. BURNS (Country Rapporteur) read out the following text:

"The Committee considered the second periodic report of Cyprus (CAT/C/33/Add.1) at its 301st and 302nd meetings, on 11 November 1997 (CAT/C/SR.301 and 302) and adopted the following conclusions and recommendations:

A. Introduction

The second periodic report of Cyprus was received in timely fashion and it complied with the General Guidelines for periodic reports (CAT/C/14) adopted by the Committee.

The oral presentation by the delegation complemented the written report, informing the Committee of the most recent developments in Cyprus. The ensuing discussion was open and fruitful.

B. Positive aspects

The Committee endorses the conclusions it found in this respect at the time of its consideration of the initial report and welcomes the legislative initiatives concerning mental health, the proposed creation of a National Institution for the Promotion and Protection of Human Rights and reform of the law of evidence.

As well, the Committee acknowledges the activities of the Ombudsman and the response of the Council of Ministers to established cases of police violence.

The Committee especially welcomes the way in which the Convention has been incorporated into the domestic law of Cyprus, particularly the Convention definition of 'torture' itself.

C. Factors and difficulties impeding the application of the provisions of the Convention

As stated in the Committee's Views on the initial report, there appears to be no structural impediment to the implementation of the Convention in Cyprus.

D. Subjects of concern

A few cases of casual violence by police officers continue to be reported, emphasizing the continuous need for programmes of education and vigorous legal response to such instances.

The fact that a victim is unable or unwilling to give evidence should not be a reason for non-prosecution where the case can otherwise be made.

E. Recommendations

The legal and administrative constructs in Cyprus are excellent; in implementing them the Committee advocates a strong programme of re-education directed to field law enforcement personnel that emphasizes the policy of the Government to honour its commitment to human rights."

19. Mr. EFTYCHIOY (Cyprus) thanked the Committee and expressed his delegation's appreciation of a partnership in which both worked to achieve the shared objectives of protection of human rights and respect for the dignity of all individuals, in Cyprus and throughout the world.

20. The CHAIRMAN thanked the delegation of Cyprus for its cooperation.

21. The delegation of Cyprus withdrew.

The public part of the meeting rose at 4.40 p.m.